

NEIL ABERCROMBIE
GOVERNOR



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STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
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March 9, 2012

TESTIMONY TO THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

For Hearing on Tuesday, March 13, 2012
9:30 a.m., Conference Room 309

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

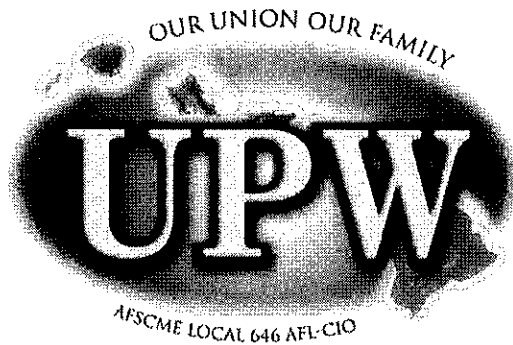
**Senate Bill No. 2213, S.D. 2
Relating to Civil Service**

TO CHAIRPERSON KARL RHOADS AND MEMBERS OF THE COMMITTEE:

The purpose of S.B. No. 2213, S.D. 2, is to require an appointing authority to consider another position administrated by the appointing authority for which an employee is qualified before the employee is considered for discharge due to failure to meet performance requirements.

The Department of Human Resources Development **supports** this measure as it provides (1) clarity and consistency to the extent an appointing authority must determine the feasibility to search for a suitable vacant position for an employee who faces the possibility of discharge for failure to meet performance requirements and (2) flexibility to all jurisdictions with respect to the identification of where an appointing authority, as defined in §76-11, Hawaii Revised Statutes, exists within organizations that vary significantly in, among other things, composition, geographic location(s), mission, and size.

Thank you for the opportunity to testify on this measure.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Sixth Legislature
Regular Session of 2012

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

The Honorable Rep. Karl Rhoads, Chair
The Honorable Rep. Kyle T. Yamashita, Vice Chair

DATE OF HEARING: Tuesday, March 13, 2012
TIME OF HEARING: 9:30 a.m.
PLACE OF HEARING: Conference Room 309

TESTIMONY ON SB 2213 SD2 RELATING TO CIVIL SERVICE

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 11,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

UPW supports SB 2213 SD2, which requires an appointing authority to consider another position administered by the appointing authority for which an employee is qualified before the employee is considered for discharge due to failure to meet performance requirements.

This measure will provide for consistency and thus create circumstances in which employees are treated equally under this law. As it stands now, the law is applied inconsistently by employers because the language lacks clarity regarding the scope of the job search. As such, employees are treated differently and experience different outcomes depending how the current law is applied.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Sixth Legislature, State of Hawaii
House of Representatives
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
March 13, 2012

S.B. 2213, S.D. 2 – RELATING TO CIVIL SERVICE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO has strong concerns about the amendments provided in S.B. 2213, S.D. 2 which amends §76-41(b), Hawaii Revised Statutes to require an appointing authority to consider another position administered by the appointing authority for which an employee is qualified before the employee is considered for discharge due to failure to meet performance requirements.

The purpose and intent behind the language in the original S.B. 2213 was to seek clarity, uniformity and consistency in application of §76-41 HRS, which provides for the seven (7) criteria that the Employer is obligated to meet when a civil service employee fails to meet performance requirements, by defining the scope of the job search to a department-wide search. The amendment found in the current S.B. 2213, S.D. 2 before this Committee is vague and unclear in application. What are the specific implications of having the appointing authority consider another position administered by the appointing authority? It is arguable that this language permissively allows the appointing authority to limit a job search to a division, which renders the amendment moot. Because the scope of the job search is still not statutorily defined, the appointing authority, whether it is state or county departments or jurisdictions, will continue to have their own interpretation of the language.

We respectfully request the original language be re-inserted and the Committee pass S.B. 2213, S.D. 2, H.D. 1 that reflects such. Thank you for the opportunity to testify on this measure.

Respectfully submitted,


for Randy Perreira
Executive Director